

## CCRB INVESTIGATIVE RECOMMENDATION

|   |                                     |                           |   |   |                                 |
|---|-------------------------------------|---------------------------|---|---|---------------------------------|
| Investigator:<br>Nathaniel Flack                  | Team:<br>Squad #3                   | CCRB Case #:<br>201702243 | <input type="checkbox"/> Force                        | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|   |                                     |                           | <input checked="" type="checkbox"/> Abuse             | <input type="checkbox"/> O.L.                 | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Sunday, 03/12/2017 12:34 PM   | Location of Incident:<br>§ 87(2)(b) | Precinct:<br>102          | 18 Mo. SOL<br>9/12/2018                               | EO SOL<br>9/12/2018                           |                                 |
| Date/Time CV Reported<br>Mon, 03/13/2017 11:30 PM | CV Reported At:<br>IAB              | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Thu, 03/23/2017 2:05 PM |   |                                 |

| Complainant/Victim | Type       | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |

| Subject Officer(s)        | Shield | TaxID  | Command |
|---------------------------|--------|--------|---------|
| 1. DI Deodat Urprasad     | 00000  | 914030 | 102 PCT |
| 2. SGT Kevin Bischoff     | 04843  | 929733 | 102 PCT |
| 3. SGT Joseph Demarco     | 01347  | 911645 | 102 PCT |
| 4. SGT Christophe Winiarz | 5236   | 942716 | 102 PCT |

| Witness Officer(s)        | Shield No | Tax No | Cmd Name |
|---------------------------|-----------|--------|----------|
| 1. POM Anthony Iglesias   | 01381     | 960703 | 102 PCT  |
| 2. POM Tommy Choi         | 20824     | 936346 | 102 PCT  |
| 3. LT Christophe Estrella | 00000     | 933768 | 102 PCT  |
| 4. SGT Sean Breen         | 4755      | 934531 | 102 PCT  |
| 5. DTS Alex Cruz          | 7303      | 940038 | 102 PCT  |
| 6. POM Scott Adelman      | 00105     | 948591 | 102 PCT  |

| Officer(s)               | Allegation   | Investigator Recommendation |
|--------------------------|--|-----------------------------|
| A.SGT Christophe Winiarz | Abuse: Sergeant Christopher Winiarz threatened to arrest § 87(2)(b)              | § 87(2)(b)                  |
| B.DI Deodat Urprasad     | Discourtesy: Deputy Inspector Deodat Urprasad spoke discourteously to § 87(2)(b) | § 87(2)(b)                  |
| C.DI Deodat Urprasad     | Abuse: Deputy Inspector Deodat Urprasad entered § 87(2)(b) in Queens.            | § 87(2)(b)                  |
| D.DI Deodat Urprasad     | Abuse: Deputy Inspector Deodat Urprasad arrested § 87(2)(b)                      | § 87(2)(b)                  |
| E.DI Deodat Urprasad     | Discourtesy: Deputy Inspector Deodat Urprasad spoke discourteously to § 87(2)(b) | § 87(2)(b)                  |
| F.DI Deodat Urprasad     | Abuse: Deputy Inspector Deodat Urprasad arrested § 87(2)(b)                      | § 87(2)(b)                  |

| Officer(s)           | Allegation   | Investigator Recommendation |
|----------------------|--|-----------------------------|
| G.DI Deodat Urprasad | Abuse: Deputy Inspector Deodat Urprasad questioned § 87(2)(b)  |                             |
| H.DI Deodat Urprasad | Abuse: Deputy Inspector Deodat Urprasad frisked § 87(2)(b)   |                             |
| I.SGT Kevin Bischoff | Abuse: Sergeant Kevin Bischoff refused to provide his name and/or shield number to § 87(2)(b)          |                             |
| J.DI Deodat Urprasad | Abuse: Deputy Inspector Deodat Urprasad refused to provide his name and/or shield number to § 87(2)(b) |                             |
| K.SGT Joseph Demarco | Abuse: Sergeant Joseph Demarco entered and searched the yard of § 87(2)(b) in Queens.                  |                             |
| L.SGT Joseph Demarco | Abuse: Sergeant Joseph Demarco stopped § 87(2)(b)  |                             |

### Case Summary

§ 87(2)(b) and § 87(2)(b) filed complaints with IAB regarding this incident on March 22, 2017 and March 13, 2017 respectively. The incident is currently being investigated by IAB under case number § 87(2)(b).

On March 12, 2017, § 87(2)(b) and § 87(2)(b) hosted friends including § 87(2)(b) and § 87(2)(b) at their home at § 87(2)(b), in Queens, to watch the annual Phagwah Parade. At approximately 9:30 am, before the guests arrived, Sgt. Christopher Winiarz of 102<sup>nd</sup> Precinct, allegedly drove by the house and “shook” his handcuffs at § 87(2)(b) (**Allegation A**). At approximately 12:30 pm, DI Deodat Urprasad, Commanding Officer of the 102<sup>nd</sup> Precinct, saw § 87(2)(b) drinking from a cup on the house’s gated front steps, and, along with Lt. Christopher Estrella of the 102<sup>nd</sup> Precinct, approached the property. DI Urprasad requested identification, allegedly told § 87(2)(b) to, “Get the fuck over here,” (**Allegation B**) and then reached over the gate to open the latch. § 87(2)(b) retreated into the house. DI Urprasad entered the property, pulled § 87(2)(b) from within the house, and placed him under arrest (**Allegations C and D**). § 87(2)(b) emerged from the front door and asked what was happening. DI Urprasad placed § 87(2)(b) under arrest (**Allegation E**) and allegedly told him, “You guys are not supposed to be fucking drinking in front” (**Allegation F**). DI Urprasad asked § 87(2)(b) why his hands were in his pockets (**Allegation G**) and allegedly frisked § 87(2)(b) (**Allegation H**). § 87(2)(b) asked Sgt. Kevin Bischoff for his name, and Sgt. Bischoff allegedly said, “John Doe” (**Allegation I**). § 87(2)(b) and § 87(2)(b) were charged with § 87(2)(b). DI Urprasad allegedly refused to provide his name to § 87(2)(b) (**Allegation J**).

Approximately 10 minutes later, Sgt. Joseph Demarco, PO Tommy Choi, Det. Alex Cruz, and PO Scott Adelman, all of the 102<sup>nd</sup> Precinct, approached the house after Sgt. Demarco observed § 87(2)(b) drinking within the gated area. Sgt. Demarco entered the property and examined areas within it including the side yard and the interior of a mailbox (**Allegation K**) while officers stopped § 87(2)(b) on Sgt. Demarco’s orders (**Allegation L**). When an active warrant was discovered for § 87(2)(b) he was placed under arrest, and the officers departed, closing and locking the gate behind them.

The investigation obtained video footage of the incident from a pair of security cameras maintained by § 87(2)(b) at the incident location, excerpted in relevant part below as Snagit 1 (Board Review 01), Snagit 2 (Board Review 02), Snagit 3 (Board Review 03), and Snagit 4 (Board Review 04). Additional Snagits showing specific allegations are also embedded below.



Snagit1.webm



Snagit2.webm



Snagit3.webm



Snagit4.webm

§ 87(2)(g)

### Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation due to the arrests.

- No Notice of Claim has been filed regarding this incident (Board Review 47).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]

### Civilian and Subject Officer CCRB Histories

- [§ 87(2)(b)] has filed five previous complaints with the CCRB (Board Review 48).
  - [§ 87(2)(b)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- This is first CCRB complaint for [§ 87(2)(b)] and [§ 87(2)(b)] (Board Review 48).
- In 25 years with the NYPD, DI Deodat Urprasad has been a subject of twenty prior allegations in nine prior CCRB cases. In CCRB case number 200502435, two retaliatory summons allegations against DI Urprasad (then a Lieutenant) were substantiated. The CCRB recommended charges, while the NYPD imposed instructions. In that case, DI Urprasad testified that he issued disorderly conduct summonses to a pair of civilians who insulted him and used profanity, because, “After a while, when you hear the curse word, you go straight ahead.” The remaining allegations against DI Urprasad were not substantiated [§ 87(2)(g)].

- In 23 years with the NYPD, Sgt. Demarco has been a subject of 14 previous allegations in six complaints. In CCRB case number 201600493, an allegation of refusal to provide and/or shield was substantiated against Sgt. Demarco, with the Board recommending Command Discipline A. There is no NYPD disposition for this allegation as of July 20, 2017. The other allegations against Sgt. Demarco were not substantiated § 87(2)(g)
- This is the first CCRB complaint against Sgt. Bischoff in 15 years with the NYPD.
- In 11 years with the CCRB, Sgt. Winiarz has been a subject of 12 previous allegations as part of three complaints. In CCRB case number 201510161, § 87(2)(b) alleged that Sgt. Winiarz entered his home, punched him in the face, said he was “the fucking sergeant,” threatened to arrest him, and made remarks based on his race. In this incident, Sgt. Winiarz responded to § 87(2)(b)s house for a domestic assault call and arrested § 87(2)(b) § 87(2)(b). The discourtesy allegation was substantiated, with the NYPD imposing instructions. In CCRB case number 200714820, Sgt. Winiarz was the subject of a substantiated stop allegation. The CCRB recommended charges, while NYPD imposed instructions. The remaining allegations against Sgt. Winiarz were not substantiated § 87(2)(g)

### Potential Issues

- § 87(2)(b) did not cooperate with the investigation or provide any statements to the CCRB. § 87(2)(b) and § 87(2)(b) all provided telephone statements, but failed to cooperate further with the investigation and did not provide verified statements.

### Findings and Recommendations

#### Allegations Not Pleaded

- § 87(2)(g) Lt. Estrella, Sgt. Breen, PO Iglesias, and other officers involved in the entry and arrests were acting on the instructions of DI Urprasad and assisting him in police action which he initiated and directed, § 87(2)(g)
- § 87(2)(g) Sgt. Demarco acknowledged that the second entry on the property was his decision, and § 87(2)(g) he was the supervisor present during the entry and search as well as the stop of § 87(2)(b) § 87(2)(g)
- § 87(2)(b) said that when he asked why § 87(2)(b) and § 87(2)(b) were being arrested, an officer told him that he should be quiet so that he would not be arrested as well. § 87(2)(b) characterized this as a warning about the other officers' conduct, rather than a threat he wished to complain about, § 87(2)(g)
- While § 87(2)(b) said that an officer asked about the presence of marijuana at the house, based on his own statements, this question was continuous with and part of the stop of § 87(2)(b) § 87(2)(g)

- § 87(2)(g)

**Allegation A – Abuse of Authority: Sergeant Christopher Winiarz threatened to arrest**

§ 87(2)(b)

In his interview (Board Review 09), § 87(2)(b) said that at 9:30 am, before the guests arrived at his house Sgt. Winiarz drove past his house in an unmarked vehicle and “shook his cuffs” in order to “tease” § 87(2)(b) § 87(2)(b) did not independently make this allegation in his phone statement (Board Review 05) or IAB intake statement (Board Review 06).

Sgt. Winiarz said (Board Review 10) that he had a scheduled day off on the day of the incident and was at home all day. He denied shaking his handcuffs at § 87(2)(b) or being anywhere in the vicinity of § 87(2)(b) § 87(2)(b).

Sgt. Winiarz’s Memo Book (Board Review 11) shows that he did not work on March 12, 2017.

The Roll Call for Tour 2 on March 12, 2017 (Board Review 12) does not list Sgt. Winiarz working that day.

§ 87(2)(g)

**Allegation B – Discourtesy: Deputy Inspector Deodat Urprasad spoke discourteously to**

§ 87(2)(b)

**Allegation E – Discourtesy: Deputy Inspector Deodat Urprasad spoke to discourteously to**

§ 87(2)(b)

In his IAB intake statement (Board Review 07), § 87(2)(b) said that while he drank Red Bull and Hennessy in front of the house, DI Urprasad approached and said, “Get the fuck over here,” and called him an “asshole.”

§ 87(2)(b) said in his interview that DI Urprasad told him, “You guys are not supposed to be fucking drinking here.” In his phone statement, § 87(2)(b) said that DI Urprasad said, “You shouldn’t be fucking drinking here, get the fuck out of here.” In his intake statement, § 87(2)(b)

§ 87(2)(b) said that DI Urprasad said that he “should not be fucking drinking here.”

In his interview, § 87(2)(b) said that when § 87(2)(b) came to the door, he said, “Hey, what the fuck are you guys doing? That’s my tenant.” § 87(2)(b) initially said that DI Urprasad did not respond at all to this, but later said that DI Urprasad may have cursed at § 87(2)(b) § 87(2)(b) though he was not sure. In his phone statement, § 87(2)(b) said that DI Urprasad did not respond at all when § 87(2)(b) asked what was happening.

§ 87(2)(b) said that when § 87(2)(b) asked what was happening, DI Urprasad said, “Get the fuck out of here,” or, “Get the fuck over here.”

DI Urprasad said that he not recall saying to any civilian that they “can’t be fucking drinking here.” He denied saying, “Get the fuck out of here,” or, “Get the fuck over here,” and denied using any profanity. All other officers interviewed either said that DI Urprasad did not make the alleged remarks, or that they did not recall him making those remarks.

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Abuse of Authority: Deputy Inspector Deodat Urprasad entered § 87(2)(b), in Queens.**

**Allegation D – Abuse of Authority: Deputy Inspector Deodat Urprasad arrested § 87(2)(b)**

**Allegation F – Abuse of Authority: Deputy Inspector Deodat Urprasad arrested § 87(2)(b)**

§ 87(2)(b) said in his interview (Board Review 15) that he was in the gated area in front of the house while § 87(2)(b) stood on the front steps, within the gate, drinking what § 87(2)(b) believed to be a rum and Coke out of a clear plastic cup. DI Urprasad walked toward the house, tried to open the gate, and called to § 87(2)(b) “You, come here, with the drink.” § 87(2)(b) said, “For what?” and started to walk down the steps towards the gate while DI Urprasad ordered him to open the gate. § 87(2)(b) turned around and walked back up the steps toward the house, while DI Urprasad opened the gate and followed him, before taking hold of him on the steps with two hands and pulling him out onto the sidewalk as additional officers arrived. Approximately 10 seconds later, while § 87(2)(b) was being placed in handcuffs, § 87(2)(b) ran out of his apartment and into the internal hallway immediately within the front door of the house and said through the open front door, “Hey, what the fuck are you guys doing? That’s my tenant.” DI Urprasad came back through the gate, took one step into the house, pulled § 87(2)(b) out of the house, and placed him under arrest. § 87(2)(g)

§ 87(2)(b) said in his interview that he was in the kitchen when he heard § 87(2)(b) yell that officers were entering the house. § 87(2)(b) walked out of the house and saw DI Urprasad pushing § 87(2)(b) out of the gate and onto the sidewalk. § 87(2)(b) said, “What are you doing here? I live here.” DI Urprasad turned to § 87(2)(b) and said, “You guys are not supposed to be fucking drinking in front” (see Allegation E above) and walked up the front steps. He grabbed § 87(2)(b) and pulled him out of the yard onto the sidewalk, where he was placed under arrest next to § 87(2)(b). § 87(2)(b) said at different points in the interview that he was grabbed from the steps and that he was grabbed from within the house. § 87(2)(b) was initially told by PO Iglesias that he would be brought to the stationhouse and released with a summons, but approximately an hour after arriving at the stationhouse, PO Iglesias told § 87(2)(b) that a “Lieutenant” had called and ordered that § 87(2)(b) be taken “through the system” to see a judge. § 87(2)(b)’s intake statement and phone statement were generally consistent with his interview, except that in his phone statement he said that DI Urprasad accused him and his guests of smoking marijuana.

§ 87(2)(b) (Board Review 17), § 87(2)(b) (Board Review 18), § 87(2)(b) (Board Review 19), and § 87(2)(b) (Board Review 20) § 87(2)(g) said that DI Urprasad “snatched” § 87(2)(b) from the front steps and did not enter the house. § 87(2)(b) said that DI Urprasad took one step into the house to grab § 87(2)(b) and varied with respect to whether § 87(2)(b) was inside or outside the doorway when he was grabbed. § 87(2)(b) said that DI Urprasad stepped through the front door of the house to grab § 87(2)(b) § 87(2)(b) said that § 87(2)(b) stepped out of the house before DI Urprasad grabbed him, but later said that DI Urprasad may have entered the house to do so.

DI Urprasad said in his interview (Board Review 21) that he saw a group of four or five individuals drinking from Corona bottles “in front of the house in plain view,” in an area which “could be private, but it’s in plain view.” He did not recall if the area they were drinking in was enclosed by a fence, but said drinking in “public view” is all that is required to constitute a violation. When he saw the men drinking, he waved over the officers posted near him and approached the house intending to issue summonses for public consumption of alcohol. Besides drinking in “plain view,” DI Urprasad did not observe anyone at the house doing anything else that was prohibited. When he asked § 87(2)(b) and § 87(2)(b) for identification, they were both “non-compliant,” in that they ignored him, walked away, and did not provide identification. DI Urprasad followed after them and along with other officers placed them under arrest for § 87(2)(b) because they had walked away when he requested identification. DI Urprasad said he could not recall whether either of the men walked back into the house before being arrested or whether he entered the house to remove them. DI Urprasad did not recall obtaining consent from any civilian to enter private property, nor did he recall any circumstances at the house which he considered to be dangerous or an emergency, though he added, “If they’re drinking, they’re probably going to cause a disturbance.” When shown the video footage, DI Urprasad said repeatedly that he was unable to “interpret the video” and that it did not refresh his memory. After prompting from his attorney, he said that § 87(2)(b) may have made statements during the incident which constituted OGA, though he said he could not recall what § 87(2)(b) said.

Lt. Estrella said in his interview (Board Review 22) that prior to the incident he noticed people drinking in front of the house, but did not take any action, explaining, “In my interpretation of the law, they’re okay because they’re on private property. I mean, that’s how the law is written.” Lt. Estrella was also busy monitoring the parade and park area, which he continued to do until DI Urprasad called his attention to § 87(2)(b) and § 87(2)(b) drinking where he had earlier observed them. DI Urprasad and Lt. Estrella approached the house, though he did not know at that time what DI Urprasad’s intention was. When DI Urprasad reached the fence, he asked § 87(2)(b) and § 87(2)(b) “What are you guys doing drinking?” before asking them for their identification. They started cursing and screaming at DI Urprasad, saying things to the effect of, “You can’t fucking do this,” and, “Get off my property.” DI Urprasad repeated his request for I.D. and ordered them to come out of the yard. § 87(2)(b) and § 87(2)(b) walked back toward the house, at which point DI Urprasad tried to open the latch of the gate, though he had some difficulty doing so, and said to Lt. Estrella, “Get that open.” DI Urprasad followed the men up the front steps and arrested them while Lt. Estrella remained near the gate. Lt. Estrella initially said he could not see whether DI Urprasad crossed the threshold of the home to take control of § 87(2)(b) or § 87(2)(b) but after viewing the video said that he remembered DI Urprasad reaching into the house and pulling § 87(2)(b) out. After § 87(2)(b) and § 87(2)(b) were removed from the scene, Lt. Estrella asked DI Urprasad, “Are we cutting them loose with



summonses?” DI Urprasad responded, “I want those guys put through,” which Lt. Estrella understood to mean that they should be held at Central Booking and arraigned. Lt. Estrella called the stationhouse desk and passed along DI Urprasad’s instruction.

PO Iglesias’ interview (Board Review 23) § 87(2)(g) PO Iglesias was the arresting officer for § 87(2)(b) and § 87(2)(b) but at the time they were brought to the stationhouse he was not sure what they were to be charged with or whether they would be released with summonses. Less than an hour after arriving at the stationhouse, Lt. § 87(2)(b) Gulinello, who was at the desk, told PO Iglesias that Lt. Estrella had instructed him to “put them through” and charge § 87(2)(b) and § 87(2)(b) with § 87(2)(b).

Sgt. Breen (Board Review 24) § 87(2)(g) said that DI Urprasad grabbed the men on the “porch” area in front of the house, and Sgt. Breen did not see him reach across the threshold of the house.



Snagit5.webm

At the opening of Snagit 5 (Board Review 25), DI Urprasad and Lt. Estrella approach the closed gate and DI Urprasad gestures towards § 87(2)(b) who is obscured from view. At 7 seconds, § 87(2)(b) in a green jacket, descends the stairs and approaches the gate, and DI Urprasad reaches over the gate and attempts to open the interior latch. § 87(2)(b) does not come all the way to the gate, but remains with one foot on the front steps, exchanging words with DI Urprasad, who continues attempting to open the latch through 13 seconds, when he withdraws his hand back over the gate. Lt. Estrella then reaches over the gate and opens the latch, as § 87(2)(b) goes back up the steps and out of view. At 20 seconds, Lt. Estrella opens the gate and DI Urprasad enters the property, following § 87(2)(b) out of view of the camera. DI Urprasad guides § 87(2)(b) down the steps at 39 seconds. At 43 seconds, DI Urprasad turns back around towards the front door and again climbs the steps, disappearing behind the obstruction. At 48 seconds, § 87(2)(b) who wears a salmon hoodie and has not previously been visible in the video, is guided down the steps by DI Urprasad.



Snagit6.webm

Snagit 6 (Board Review 26) shows that same time period as Snagit 5 from a different angle. At 21 seconds, § 87(2)(b) comes up the steps and enters the house. DI Urprasad follows § 87(2)(b) until DI Urprasad’s shoulder is flush with the doorframe, but the view of his arms is blocked by the door. DI Urprasad moves his left shoulder while § 87(2)(b) reenters the frame from within the house, and DI Urprasad guides § 87(2)(b) down the steps. At 39 seconds, § 87(2)(b) exits the house, entering the frame from the lower right, and is seen exchanging words with Lt. Estrella. At 42 seconds the top half of his body bends toward the stairs and is blocked by the door. At 45 seconds, § 87(2)(b)’s head appears briefly above the obstruction, before he moves suddenly down the steps at 46 seconds and is seen being guided out of the gate at 49 seconds.

New York City Administrative Code § 10-125 (Board Review 32) prohibits consumption of alcohol in public places. The statute employs a narrow definition of a “public place” based on public access rather than public view, and the statute further excludes areas within residential properties. People v. Chavez, 41 Misc. 3d 526 (2013) (Board Review 33).

A person is guilty of OGA when he intentionally obstructs the administration of law by means of intimidation, physical force, or interference. NY Penal Law § 195.05 (Board Review 46). Ignoring an officer’s request to provide identification is not a crime and does not constitute OGA. Uzoukwu v. City of New York, 805 F.3d 409 (2015) (Board Review 36). Mere words alone do not constitute physical force or interference. In order to trigger criminal liability for OGA, the interference would have to be, in part at least, physical in nature. Evidence that a person intruded into police activity to frustrate its objectives qualifies as violating the statute. In re Davan L., 91 N.Y.2d 88 (1997) (1997) (Board Review 37). The offense of OGA has not been committed where the police action allegedly obstructed was not in itself authorized or lawful. People v. Greene, 221 A.D.2d 559 (1995) (Board Review 38).

A front yard or porch, which is completely fenced-in and located in close proximity to a home is within the curtilage of the home. The curtilage of the home is part of the home itself. To justify a warrantless entry into a home, a police officer must have exigent circumstances. People v. Morris, 126 A.D.3d 813 (2015) (Board Review 27). The exigent circumstances exception is narrowly drawn to cover cases of real, and not contrived, emergencies. The exigent circumstances doctrine does not justify an entry and arrest for a minor offense, such as driving under the influence of alcohol. Welsh v. Wisconsin, 466 US 740 (1984)(Board Review 39).

An officer may arrest an individual only if there is reasonable cause to believe the person committed an offense. PG 208-01 (Board Review 40).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

**Allegation G – Abuse of Authority: Deputy Inspector Deodat Urprasad questioned**

§ 87(2)(b)

In his interview, § 87(2)(b) said that while § 87(2)(b) and § 87(2)(b) were being placed under arrest, he was asking what they had done, and that DI Urprasad approached him and said, “Why do you have your hands in your pockets?” § 87(2)(b) pulled his hands out of his pockets and told DI Urprasad he had nothing in them, adding that his hands were cold. § 87(2)(b)

§ 87(2)(b) s interview was consistent with § 87(2)(b) s. He did not mention this allegation in his telephone statement.

No other civilian independently mentioned this allegation.

DI Urprasad did not recall speaking to a man in front of the house who had his hands in his pockets, or asking him why they were in his pockets. He did not recall any indication that anyone at the house was using or possessed contraband, or any indication of danger from the people at the house, besides that they were drinking.

All other officers interviewed either denied or did not recall DI Urprasad asking someone why they had their hands in their pockets.



Snagit7.webm

At 0 seconds in Snagit 7 (Board Review 41), DI Urprasad walks through the open gate into the yard and approaches § 87(2)(b) who is wearing a grey hoodie and has his hands in his pockets. § 87(2)(b) s back is to the camera. DI Urprasad is saying something to § 87(2)(b) and at 2 seconds § 87(2)(b) removes his hands from his pockets and holds them up in front of him. DI Urprasad continues speaking to § 87(2)(b) before walking away at 9 seconds.

After being shown the video, DI Urprasad said he still did not recall what he and § 87(2)(b) were saying, or whether he was asking him about his pockets.

An officer may ask a civilian accusatory questions only if the officer possesses a founded suspicion, based on articulable facts, that criminal activity is afoot. Questions become accusatory when the person approached could reasonably believe from the questions that he or she is suspected of some wrongdoing. People v. Hollman, 79 N.Y.2d 181 (1986) (Board Review 42). Founded suspicion of criminal activity is required for an officer to compel a civilian to remove their hands from their pockets. People v. Giles, 23 Misc. 3d 1106(A) (2009) (Board Review 31).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation H – Abuse of Authority: Deputy Inspector Deodat Urprasad frisked § 87(2)(b)**

§ 87(2)(b)

In his phone statement, § 87(2)(b) said that after DI Urprasad entered the yard, he told § 87(2)(b) to put his hands on the fence, and then patted down the outside of his pockets.

DI Urprasad said that only the people who were arrested were frisked.

DI Urprasad and § 87(2)(b) in blue jeans and a grey jacket with a blue hood, are visible throughout Snagit 1, and at no time does DI Urprasad frisk § 87(2)(b) or make any contact with him.

§ 87(2)(g)

**Allegation I – Abuse of Authority: Sergeant Kevin Bischoff refused to provide his name and/or shield number to § 87(2)(b)**

§ 87(2)(b) said in his interview that while being escorted to the van on the way to the stationhouse, he asked Sgt. Bischoff for his name, and Sgt. Bischoff replied, “John Doe.” § 87(2)(b) did not make this allegation in his phone statement or IAB intake statement.

No other civilian independently made this allegation. § 87(2)(b) said in his verified statement that after being placed under arrest, § 87(2)(b) said to the officers in the area generally, “I want your names,” and no officer replied to his.

Sgt. Bischoff said in his interview (Board Review 44) that while escorting § 87(2)(b) and § 87(2)(b) to the prisoner van, one of the men asked him for his name, and he responded, “Sgt. Bischoff.” He denied saying that his name was “John Doe.”

All other officers denied or did not recall Sgt. Bischoff telling § 87(2)(b) that his name was “John Doe,” or refusing to provide his name at all.

§ 87(2)(g)

**Allegation J – Abuse of Authority: Deputy Inspector Deodat Urprasad refused to provide his name and/or shield number to § 87(2)(b)**

In his statement to IAB, § 87(2)(b) said that he asked DI Urprasad for his name, and that DI Urprasad did not provide it. No other civilian mentioned this allegation.

DI Urprasad did not recall any civilian requesting his name during the incident.

§ 87(2)(g)

**Allegation K – Abuse of Authority: Sergeant Joseph Demarco entered and searched the yard of § 87(2)(b), in Queens.**

**Allegation L – Abuse of Authority: Sergeant Joseph Demarco stopped § 87(2)(b)**

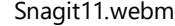
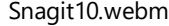
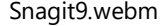
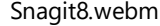
§ 87(2)(b) said in his interview that he and § 87(2)(b) remained in the yard after § 87(2)(b) and § 87(2)(b) were arrested. Approximately ten minutes later, Sgt. Demarco, PO Choi, and additional officers approached the closed gate and entered the yard area. An officer asked, “Where’s the weed?” but they walked past § 87(2)(b) and split into groups, with one group going to the left side of the yard and one to the right side. At least one officer went into the side yard area towards the back of the house. While this was happening, § 87(2)(b) exited the house into the front yard, at which point one of the officers asked him, “Where’s the weed?” and placed § 87(2)(b) in handcuffs, while § 87(2)(b) and § 87(2)(b) left the location. § 87(2)(g)

§ 87(2)(b) said in his phone statement that he went outside to smoke a cigarette when a group of officers opened the gate, entered the yard, and told him he would have to be arrested for open container, even though he did not have a drink or anything in his hands.

§ 87(2)(b) s and § 87(2)(b) s statements § 87(2)(g) § 87(2)(b) said that § 87(2)(b) had a drink in his hand and put it down as the officers approached. All civilians denied that there was marijuana at the house.

Sgt. Demarco said in his interview (Board Review 45) that he, PO Choi, and PO Edelman observed § 87(2)(b) drinking in front of the house, which Sgt. Demarco considered to be “public land.” He said he could not recall whether § 87(2)(b) was within a fence. Sgt. Demarco did not recall what specifically § 87(2)(b) was drinking, but said he was certain it was “an open alcohol,” and that there were also “bottles in the area” near the house. Sgt. Demarco or another officer asked for § 87(2)(b) for identification, which he provided. PO Choi conducted a warrant check and identified an active warrant for § 87(2)(b). § 87(2)(b) was placed under arrest at Sgt. Demarco’s instruction. During this process, Sgt. Demarco “surveyed his surroundings” by looking around and turning his body, but denied looking inside a mailbox or searching the side or back yard area. Sgt. Demarco said that he did not smell marijuana at the location.

§ 87(2)(g) PO Choi’s (Board Review 37) and Det. Cruz’s (Board Review 35) § 87(2)(g). Det. Cruz said that he smelled marijuana at the house but that it was not discussed or asked about by the officers.



A front yard of porch which is completely fenced-in and located in close proximity to a home is within the curtilage of the home. The curtilage of the home is part of the home itself. To justify a warrantless entry without consent, a police officer must have exigent circumstances. People v. Morris, 126 A.D.3d 813 (2015). In order to stop a civilian, an officer must possess reasonable suspicion at the time that a crime or violation is being committed. People v. Debour (Board Review 43)

§ 87(2)(g)

Reviewer: \_\_\_\_\_

Title/Signature                  Print                  Date